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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/942,045	08/30/2001	Jan Dietrich	085449-0112	7698

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EXAMINER

SHEWAREGED, BETELHEM

ART UNIT PAPER NUMBER

1774

DATE MAILED: 03/28/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/942,045

Applicant(s)

DIETRICH ET AL.

Examiner

Betelhem Shewareged

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 16-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☒ Claim(s) 12-15 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
 If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>5</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Applicant's response filed on 02/28/2003 has been fully considered.

Election/Restrictions

2. Applicant's election with traverse of Group I, claims 1-15 in Paper No. 9 is acknowledged. The traversal is on the ground(s) that since the subject matter of claims 19 and 20 is very closely linked with the elected subject matter of Group I there is no additional burden presented for the PTO to examine claims 19 and 20 with the elected claims. This is not found persuasive because the elected claims are distinct from claims 19 and 20. Examining both the elected claims and claims 19 and 20 requires searching in two different areas, i.e. class 428 and class 442, and searching in two different classes certainly put additional burden on the examiner.

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Kronzer et al. (US 5,242,739).

Kronzer discloses an image receptive heat transfer paper comprising a flexible cellulosic non-woven web base sheet and an image receptive melt transfer film layer

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over the base sheet, wherein the image receptive melt transfer film layer comprises a binder and a powdered polymer, wherein the amount of the binder is 15-80% by weight and the amount of the powdered polymer is 85-20% by weight (col. 3, lines 53-68). The image receptive melt transfer film layer is equivalent to the claimed at least one melt transfer ink absorption layer. The binder can be ethylene-acrylic acid copolymer (col. 6, line 29). The powdered polymer can be polyamide (col. 14, line 4) and it has a particle diameter of 2-50 micrometer (col. 6, line 7), wherein the particle diameter is within the claimed particle size range. The binder melts in the range of 65 to 180 °C (col. 6, line 5), which overlaps with the claimed melting range. The calculated weight ratio of binder to powdered polymer is 1:0.25 to 1:5.66, which overlaps with the claimed weight ratio of matrix material to filler. The calculation is done as follow: 15% by weight of binder/85% by weight of powdered polymer = 1:5.66, and 80% by weight of binder/20% by weight of powdered polymer = 1:0.25. The thickness of the image receptive film layer is 12 to 80 micrometer, which overlaps with the claimed thickness (col. 6, line 10). The image receptive melt transfer film layer can be separated into a melt transfer film layer and an image receptive film layer, and in this instance the melt transfer film layer is disposed between the base sheet and the image receptive film layer (col. 7, line 9). The image receptive film layer and the melt transfer film layer are equivalent to the claimed melt transfer ink absorption layer comprising a plurality of layers as recited in claim 8. The melt transfer film layer comprises a binder (col. 4, line 7). Since the melt transfer film layer is missing the powdered polymer, there is a concentration gradient of the powdered polymer in the image receptive melt transfer film layer as recited in claim 9.

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

6. Claims 1-11 are rejected under 35 U.S.C. 102(a) as being anticipated by Hare et al. (US 6,087,061) as evidenced by Kronzer et al. (US 5,242,739).

Hare discloses a hot peel transfer for dry release and adhesion, comprising a polyethylene terephthalate (PET) support and a transfer material coated on the support (col. 4, line 8 and col. 8, lines 55-61). Hare further discloses the transfer material of Kronzer et al. (US 5,242,739) as a suitable transfer material to be applied on the support. The transfer material of Kronzer is disclosed above in paragraph 4. The PET is equivalent to the claimed polyester backing material because PET is known as a polyester material. Since the support material of Hare and the claimed backing material are substantially identical, the heat resistance of the support of Hare would inherently be equivalent to the claimed heat resistance as in claim 11.

Allowable Subject Matter

7. Claims 12-15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Neither Kronzer nor Hare teach or suggest

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a transfer system having a backing material with a rough release surface and a non-meltable dulling material or layer as recited in claims 12-15.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Betelhem Shewareged whose telephone number is 703-305-0389. The examiner can normally be reached on Mon.-Thur. 7:30AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cynthia H Kelly can be reached on 703-308-0449. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-5408 for regular communications and 703-305-3599 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0651.

BS 
March 24, 2003.